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Reply Comments Submitted to the Federal Communications Commission (WC 07-52)
In the Matter of Broadband Industry Practices
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No to Net Neutrality

The Pacific Research Institute (PRI), based in San Francisco, conducts research on technology and public policy and is about to publish a paper on the issue of Net neutrality. PRI has examined many of the Net neutrality comments submitted to the FCC, and wishes to submit a response, as this issue will determine the future of the Internet and wireless communication.

During the 1960s, as Net neutrality proponents have pointed out, it was brilliant of the FCC to mandate neutrality under the monopoly carrier of the day. It was also brilliant of the FCC to act otherwise, to reject monopoly-era regulation in the era of broadband, cable modems, fiber-optic systems and the like. Developments since then have validated that decision.

As the Federal Trade Commission (FTC) recently noted in *Broadband Connectivity Competition Policy*, there has been an explosion of new technology under current market and regulatory conditions. Consumers can avail themselves of wireless technologies such as Wi-Fi, Wi MAX, and 3G cellular services. Three companies have deployed infrastructure to provide satellite broadband service to most of the United States, which will add to the more than 400,000 satellite broadband customers already in place at the end of 2005. Telephone companies are deploying fiber-optic broadband networks, and broadband over power lines (BPL) technology is already deployed in a handful of local markets.

Responsible policy makers will welcome that explosion of technology and allow it to continue. The comments to the FCC make it clear that difficulties remain few, and that current regulations are more than adequate to deal with consumer complaints, such as the *Madison River* case, and to adjudicate disputes between rival companies.

Proponents of Net neutrality advocate new rules, based on conditions that no longer exist, that would harm a functioning system, capable of creative and rapid change. As the comments to the FCC make clear, they do so not on the current record but on what they *suspect* a few companies might be cooking up against the very customers they depend on for their livelihood. Under current conditions those customers are free to dump one company for another, as they should be.

Net neutrality, in other words, would scrap what exists based on an unknown, a hypothetical that assumes the worst, without knowledge. This is superstition, not

responsible public policy. Net neutrality would turn back the clock to the regulatory regime of a bygone monopoly era. The FCC should reject it and let stand current policy which has brought so much benefit to consumers. This would set a strong example for other agencies and governments alike.

Neither Congress nor any state should make any law imposing the regulatory regime of Net neutrality. Such a regime would wield negative consequences for consumers, quash innovation and investment and, as the FTC has warned, likely prove difficult or impossible to change in the future.

Likewise, the FCC should not bundle political and regulatory considerations into the auction of 700 MHz spectrum, as Net neutrality proponents demand. As in broadband, new technologies have proliferated, competition thrives, and prices have dropped, to the point that even the homeless can afford cell phones.¹ Politicizing the spectrum auction and turning back the clock to a monopoly era will change all that, to the detriment of the consumer.

There is wisdom in the maxim that if something isn't broken, don't fix it. In this case, something isn't broken, so the FCC should not break it. Kept free from a regulatory regime that would be both onerous and reactionary, high-tech companies large and small will continue to attract investment and roll out services that will promote Internet intelligence, diversity, and ubiquity, the true digital democracy of the next-generation Net.

¹ "Cell-phone use growing more popular among the homeless," *Raleigh News & Observer*, March 27, 2006.